

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 519 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5: NO

PUNABHAI MATRABHAI BHARWAD

Versus

STATE OF GUJARAT

Appearance:

MR EE SAIYED for Petitioner
MR SR DIVETIA APP for Respondent No. 1
NOTICE SERVED for Respondent No. 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 02/07/98

ORAL JUDGEMENT

The present petition under Article 226 of the Constitution of India is preferred by one Punabhai Matrabhai Bharvad praying for transfer of the investigation in respect of C.R No. 153/98 from Sardarnagar Police Station.

2. It appears that the petitioner is the brother of one Dhanabhai. Petitioner and said Dhanabhai and other brothers of the petitioner are living at village Sunderbhavani, Taluka-Advad, District-Surendranagar. On 13th May, 1998, said Dhanabhai had come to Ahmedabad to attend the marriage of his brother-in-law. On 14th May, 1998, said Dhanabhai had attended the marriage of his brother-in-law, however, he did not reach his village Sundar-bhavani thereafter. Petitioner, therefore, inquired about him and when he was not able to find out the whereabouts of said Dhanabhai, lodged a complaint before Sardarnagar Police Station in respect of his missing brother - Dhanabhai. After investigation, police arrested one Karamsinh Moti and also recovered dead body of said Dhanabhai and the weapon with which he is alleged to have been killed. Petitioner, however, feels that the police has failed to properly investigate the offence committed by said Karamsinh Moti and the police has shielded other offenders. He, therefore, prays that the investigation be transferred from Sardarnagar Police Station.

3. In response to the notice issued by this Court, one Shri M.D Dave, 2nd Police Inspector, Sardarnagar Police Station has filed an affidavit. The investigation papers are also produced for perusal of this Court. It appears that police has investigated the crime and on the basis of complaint lodged by the petitioner, arrested the accused Karamsinh Moti. Pursuant to the information received from said Karamsinh Moti, the dead body of Dhanabhai and the weapon have also been recovered. Further investigation is in progress and the prosecution has made an application for further remand of the accused Karamsinh. On perusal of the said affidavit and the investigation papers, I am unable to accept the allegations made against the investigating officers. It does not appear that police has been shielding the accused or any of his accomplices. The petitioner has specifically made an allegation that though Bai Jitu has been involved in the offence, she has not been arrested by the police. Merely because the petitioner has suspicion against Bai Jitu, police is not expected to arrest said Bai Jitu. Police cannot take action against her unless some evidence is found against her.

4. Having regard to the affidavit made by Shri M.D Dave, 2nd Police Inspector and the investigation papers, I do not see any justifiable ground for ordering transfer of investigation to some other police station. Petition is, therefore, summarily rejected. Notice is discharged.

Prakash*